

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/1/08 has been entered.

Drawings

2. The drawings are objected to because Fig. 3 contains informal handwritten labels. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 5-13, 26, 28, 29 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartosik et al. (US 6,725,194) in view of Papineni et al. (US 6,246,981).

As per claim 1, Bartosik teaches, "a speech recognition system comprising":

"a speech recognition device that is configured and arranged to receive an audio response from said respondent over a communication device and conduct a speech recognition analysis of said audio response to automatically produce a corresponding text response" (Fig. 1, elements 2, 42, 45);

"a storage device for storing said audio response as it is received by said speech recognition device" (Fig. 1, element 23).

"an accuracy determination device for automatically comparing said text response to a text set of expected responses and determining whether said text response corresponds to one of said expected responses, wherein said accuracy is configured and arranged to determine whether said text response corresponds to one of said expected responses within a predetermined accuracy confidence parameter and to flag said audio response so as to produce a flagged audio response for further review by a human operator when said text response does not correspond to one of said expected responses within said predetermined accuracy confidence parameter" (col. 6, lines 7-16 and col. 9, lines 1-62); and

"a human interface device for enabling said human operator to hear said audio response and review the corresponding text response for the flagged audio response to determine the actual text response for the flagged response, either by selecting from a predetermined list of text response or typing the actual text response if no such match exists in the predetermined list of responses" (col. 6, lines 27-54).

Bartosik does not explicitly teach, "a querying device for posing at least one query to a respondent" and communication device is a telephone. However, Papineni teaches, "a querying device for posing at least one query to a respondent" (Fig. 1, DM response) and communication device is a telephone (col. 14, lines 55-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to

use Papineni's teaching in the invention of Bartosik because Papineni teaches his invention provides a more versatile interface for interacting with users (Papineni ,col. 1, lines 9, 10),

As per claim 5, Bartosik teaches, "wherein said human interface device comprises a personal computer including a monitor for enabling the human operator to view said text response and an audio speaker device for enabling the operator to listen to said flagged audio response" (Fig. 1, elements 4 and 34),

As per claims 6 and 7, Bartosik does not explicitly teach, "wherein said querying device includes a program having an application file, said application file including code which causes the at least one query to be posed to the respondent, a list of expected responses and an address at which a file containing the received audio response will be stored in the storage device", However, Papineni teaches, "wherein said querying device includes a program having an application file, said application file including code which causes the at least one query to be posed to the respondent, a list of expected responses and an address at which a file containing the received audio response will be stored in the storage device" (col. 6, lines 51-63), Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Papineni's teaching in the invention of Bartosik because Papineni teaches his invention provides a more versatile interface for interacting with users (col. 1, lines 9, 10).

As per claim 8 and 9, Bartosik teaches, "wherein said human interface device includes a graphical user interface on which the operator views said text set of expected responses wherein, after listening to said audio response, the human operator is able to select one of said expected responses from said text set of expected response if the

operator determines that the response corresponds to one of said expected responses" (col. 6, lines 47-56).

As per claim 10 and 11, Bartosik teaches, "wherein said graphical user interface comprises an application navigation window for enabling the operator to navigate through said text set of expected responses, and an audio navigation window for enabling the operator to control playback of said audio response" (col. 6, lines 47-66).

As per claim 12 and 13, Bartosik teaches, "wherein said graphical user interface includes a text entry window which enables the operator to enter a text response if none of said expected responses from said text set of expected responses corresponds to said audio response" (col. 6, lines 17-36).

Claims 26, 28, 29 and 33, are method steps that are performed by the apparatus claims of claims 1,5-13 and as such, are similar in scope and content to claims 1,5-13 above; therefore, claims 26,28,29,33 are rejected under similar rationale as presented against claims 1,5-13 above.

Response to Arguments

5. Applicant's arguments filed 8/1/2008 have been fully considered but they are not persuasive. As per applicants arguments on pages 7-8 of the response concluding with "Applicants note that Bartosik relies upon a user reading all recognized text information to determine erroneous recognitions, and because of such actually teaches away from applicants claims", examiner disagrees and argues that the claim scope is toward a human operator which can be the user; the current claim scope does not differentiate separately the user and the human

operator (as taught in Bartosik). As per applicants arguments on pages 8-9 of the response arguing against the flagging features of Bartosik and Papineni, examiner disagrees and argues that it is the combination of Bartosik in view of Papineni that is used to address these claim limitations (and as a side note, it is the commonality of improving speech recognition -- Papineni teaching ways to improve speech recognition in recorded dialog exchanges). Furthermore, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation (although applicant details the workings of Bartosik and Papineni, applicant does not provide a compare/contrast to explain the allegation that the references do not meet the current claim scope) that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Lastly, In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see related art listed on the PTO-892 form.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (571)272-7623, who is available Tuesday-Thursday, 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Richemond Dorvil, can be reached at (571)272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michael N. Opsasnick/
Primary Examiner, Art Unit 2626
10/26/08